

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

DOUGLAS JOSEPH CHYATTE,
Plaintiff,

vs.

MONTANA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

CV 16-00042-H-DLC-JTJ

ORDER

This matter comes before the Court on Plaintiff Douglas Chyatte's Motion to Strike (Doc. 43), Motion to Stay all Deadlines (Doc. 51), and Motion for Extension (Doc. 52).

I. Motion to Strike

Mr. Chyatte moved to strike Defendants' response to his Notice of Rule 11 Sanctions. (Doc. 43.) By way of background, Mr. Chyatte filed a Notice of Rule 11 Violation on September 26, 2016, regarding Defendants' response to his first motion for injunctive relief. (Doc. 25.) Out of an abundance of caution, Defendants filed a response to the filing on October 11, 2016. (Doc. 34.) On October 21, 2016, Mr. Chyatte filed a motion to strike Defendants' response arguing that he filed his notice in compliance with Rule 11(c)(2) of the Federal

Rules of Civil Procedure, that he had not yet made a motion for sanctions, and therefore the response was unnecessary. (Doc. 43.) Rule 11(c)(2) specifically provides that if one is seeking sanctions pursuant to Rule 11 they must first serve a copy of their motion, but it must not be filed unless the challenged action is not corrected within 21 days after service. Fed.R.Civ.P. 11(c)(2). Mr. Chyatte's conduct in filing his notice therefore was in violation of Rule 11(c)(2).

In light of Mr. Chyatte's concession that he has not moved for Rule 11 sanctions, his motion to strike will be granted and both Mr. Chyatte's notice and Defendants' response to that notice will be stricken from the record.

II. Motion to Stay

In the motion to stay, Mr. Chyatte seeks to stay all deadlines pending the resolution of his appeal filed in this matter. As that appeal was dismissed for lack of jurisdiction on November 15, 2016 (Doc. 49), the motion to stay will be denied.

III. Motion for Extension

Mr. Chyatte seeks an extension of time to file a reply to Defendants' response to his third motion for injunctive relief. (Doc. 52.) Mr. Chyatte indicates that he did not have access to the prison law library in November and does not anticipate access to the library until December 1, 2016. He asks that he be allowed until December 27, 2016, to file a reply to Defendants' response. (Doc. 52.) The

motion will be granted, but Mr. Chyatte has filed three motions for injunctive relief in this matter. (Docs. 7, 10, 26.) The Court will address these motions together at one time and therefore, there will be no ruling on Mr. Chyatte's other motions for injunctive relief until such time as he files his reply brief to the latest motion for injunctive relief.

Based upon the foregoing, the Court issues the following:

ORDER

1. Mr. Chyatte's Motion to Strike (Doc. 43) is GRANTED. Both Mr. Chyatte's Notice of Rule 11 Violation (Doc. 26) and Defendants' Notice in Response to that filing (Doc. 34) are STRICKEN FROM THE RECORD and will not be considered for any purpose.
2. Mr. Chyatte's Motion to Stay all Deadlines (Doc. 51) is DENIED.
3. Mr. Chyatte's Motion for Extension (Doc. 52) is GRANTED. Mr. Chyatte shall have until December 27, 2016 to file a reply to Defendants' Response to his third motion for preliminary injunction.

DATED this 21st day of November 2016.

/s/ John Johnston
John Johnston
United States Magistrate Judge